

The obligation to instruct pursuant to Section 118a of the Civil Procedure Code

Abstract

This thesis focuses on the court's obligation to instruct in civil proceedings, with the key element of the examination being its application under Section 118a of Civil Procedure Code. The aim of the thesis is not only a theoretical definition of the institute of the obligation to instruct, but also a thorough analysis of its practical implications for a fair trial, the equality of the parties and the question of the judge's impartiality. The thesis focuses on how an active approach of the court within the framework of the obligation to instruct can influence the overall course of the proceedings and what consequences it can have for the observance of the principles of adversarial proceedings and equality of arms.

In the introductory part of the thesis, the theoretical framework of the obligation to instruct in the context of civil procedure is discussed in detail. Particular attention is paid to the application of Section 118a of the Civil Procedure Code, which regulates the court's obligation to instruct parties on the failure to carry the burden of proof if they are at risk of being unsuccessful in the case. The thesis analyses to what extent this instruction may affect the rights of the parties and whether the court has the possibility to significantly influence the outcome of the proceedings in this respect. Furthermore, the thesis focuses on the question of whether such court activity can undermine the impartiality of the judge, which is one of the key aspects of a fair trial.

The historical part of the thesis deals with the development of the obligation to instruct in the Czech legal system, the key moment being the major amendment to the Civil Procedure Code in 2000. This reform fundamentally changed the approach to the obligation to instruct, especially in connection with the strengthening of the judge's responsibility for the conduct of the trial and the increased demands on the court's activity. This thesis describes the consequences of this amendment and how it has affected judicial practice.

In the final part, the thesis focuses on *de lege ferenda* considerations, i.e. possible changes and reforms for the future. Attention is given to how further legislative changes could be aimed at improving the balance between the efficiency of court proceedings and preserving the impartiality of the judge, with an emphasis on ensuring the equality of the parties.

Key words: Court's obligation to instruct, impartiality of the judge, fair trial